

NOTIFICATION OF ENHANCEMENT – DOMESTIC VIOLENCE

Defendant: _____, Case No. _____

ELEMENTS

[] Class-B-Misdemeanor Assault 76-5-102: A person commits this offense if the person: (a) attempts, with unlawful force or violence, to do bodily injury to another; (b) threatens, accompanied by a show of immediate force or violence, to do bodily injury to another; or (c) commits an act, with unlawful force or violence, that causes or creates a substantial risk of bodily injury to another.

[] Class-B-Misdemeanor Criminal Mischief 76-6-106: A person commits this offense if the person: (a) intentionally and unlawfully tampers with the property of another and as a result recklessly endangers human health or safety; or (b) intentionally damages, defaces, or destroys the property of another, if the actor's conduct causes or is intended to cause pecuniary loss of less than \$300 in value.

[] Class-B-Misdemeanor Commission of Domestic Violence in the Presence of a Child (Child Abuse) 75-5-109.1: A person commits this offense if the person commits an act of domestic violence in the presence of a child.

[] Damage to or Interruption of a Communication Device (Class B Misdemeanor) 76-6-108: A person commits this offense if the actor attempts to or proceeds to prohibit or interrupt another person's use of a communication device when the other person is attempting to or has communicated a desire to summon emergency aid, and in the process the actor: (a) uses force, intimidation, or any other form of violence; (b) destroys, disables, or damages a communication device; or (c) commits any other act in an attempt to prohibit or interrupt the person's use of a communication device to summon emergency aid.

77-36-1(4): "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit such an offense, when committed by one cohabitant against another. "Domestic violence" also includes, but is not limited to, the commission or attempt to commit, any of the following offenses by one cohabitant against another: (a) assault; (b) harassment; (c) electronic communication harassment; (d) sexual offenses; (e) unlawful detention; (f) any offense against property described in Title 76, Chapter 6, Part 1, 2, or 3; (g) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle; (h) disorderly conduct, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with any of the domestic violence offenses described above; or (i) child abuse.

78B-7-102 (2), (3): "Cohabitant" means a person who is emancipated or 16 years of age or older who: (a) is or was a spouse; (b) is or was living as if a spouse of the other party; (c) is related by blood or marriage to the other party; (d) has one or more children in common with the other party; (e) is the biological parent of the other party's unborn child; or (f) resides or has resided in the same residence as the other party. "Cohabitant" does not include: (a) the relationship of a natural, adoptive, or step-parent to a minor; or (b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.

ENHANCEMENT / PENALTIES

77-36-1.1: When an offender is convicted of any domestic violence offense in Utah, or is convicted in any other state, or in any district, possession, or territory of the United States, of an offense that would be a domestic violence offense under Utah law, and within a five-year period after the conviction commits or is convicted of a domestic violence offense that is a misdemeanor, the offense charged and the punishment for that subsequent offense is enhanced by one degree above the offense and punishment otherwise provided in the statutes described in Section 77-36-1. For purposes of this section, a plea in abeyance is considered a conviction, even if the charge has been reduced or dismissed pursuant to the agreement.

77-36-5(4), (5): The court shall assess against the defendant any costs for services or treatment provided to the abused spouse by the Division of Child and Family Services under, 62A-4a-106, and order those costs to be paid directly to the division or its contracted provider. The court shall order the defendant to obtain and satisfactorily complete treatment or therapy in a domestic violence treatment program unless the court finds no licensed program is reasonably available or that treatment is not necessary.

URCrP 11(g); 22(c)(2): If the defendant is convicted of, or pleads guilty, no contest, or guilty and mentally ill to, a misdemeanor crime of domestic violence, it is unlawful for the defendant to possess, receive or transfer any firearm or ammunition.

PENALTIES

Minimum / Maximum Sentences

Class B Misdemeanor: 0 days to 6 months jail; \$0 to \$1,890 fines and surcharges, plus interest

Class A Misdemeanor: 0 days to 1 year jail; \$0 to \$4,658 fines and surcharges, plus interest

Third Degree Felony: 0 days to 5 years prison; \$0 to \$9,283 fines and surcharges, plus interest

I understand the foregoing Notification of Enhancement as explained here and as orally explained to me.

Date: _____ Name: _____